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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/620,867

07/21/00

BLUMENTHAL

J

8173

PM92/1011

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EXAMINER

DEUBLE, M

ART UNIT

PAPER NUMBER

3651

DATE MAILED:

10/11/01

5

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/620,867

Applicant(s)

BLUMENTHAL ET AL.

Examiner

Mark A. Deuble

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed November 15, 2000 lists U.S. Patent Number 5,693,195 to Saito et al., however, it is believed that this patent was listed in error. It appears from the discussion on page 2 of the specification that the applicant intended to list U.S. patent No. 5,693,165 to Schmitz. Accordingly, the patent to Saito et al. has not been considered and the patent to Schmitz has been listed on the PTO-892 form submitted by the examiner.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the cutting device comprising a pinch knife cutter and knife anvil of claim 22-23 and the applicator for performing a secondary process of claims 11 and 20 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 1-11 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by McNichols et al.

McNichols et al. shows an apparatus that receives parts 908 traveling at a first speed through a receiving zone and applying the parts 908 to a carrier 903 traveling at a second speed through an application zone. The apparatus includes a rotatable transferring device 100/104 in the form of a hollow drum split into two segments along lines 150 and 152 (see Fig. 3b). The transferring device 100 receives the parts 908 at a receiving zone adjacent a feed conveyor 920 and then deposits them on the carrier 903 at an application zone adjacent roller 306. The segments of the transferring device are each adapted to hold the parts 908 on an arcuate outer surface 120 that moves along an orbital path that passes through the receiving zone and the application zone during rotation of the transferring device. Each of the shell segments collects a part 908 in the receiving zone and holds it against the arcuate outer surface 21 via a combination of ultrasonic and vacuum forces. As the part 908 is moved between the receiving zone and the application zone, a secondary process is preformed on the part 908 by a pinch knife cutter and anvil assembly 404 which cuts the part 908 from a continuous web of material 912 before applying the parts 908 to the carrier 903 in the application zone (see Fig. 19). The speed of the transferring device 100 is controlled by an independent driving mechanism that includes a programmable servomotor 922 which transmits the conveying energy to the rotatable transferring device 100 through a gear box 924. The programmable motor 922 maintains the surface of the transferring device 100 at a first speed at the receiving zone which matches the speed of the part 908 in that zone and then accelerates to maintain the speed of the transferring device 100 at a second speed in the application zone which matches the speed of the carrier 903 in that zone (see Figs. 20-21). It should be noted that while the first and second speeds are disclosed as being relatively constant, they may be varied none the less by the programmable

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controller 923 of the servomotors 922. Therefore, because the passive language of the claims requires only that the relative speeds of the parts in the application and receiving zones be variable and not that relative speeds actually be varied, McNichols et al. shows all the structure required by claims.1-10.

3. Claims 1-10 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Den Bergh.

Van Den Bergh shows an apparatus that receives parts 4 traveling at a first speed through a receiving zone and applying the parts 4 to a carrier 24 traveling at a second speed through an application zone. The apparatus includes a rotatable transferring device 14 in the form of a hollow drum that receives the parts 4 at a receiving zone adjacent the peeling apparatus 7 and then deposits them on the carrier 24 at an application zone. The transferring device 14 may be viewed as being formed of a plurality of integral shell segments, each adapted to hold one part 4 and each having an arcuate outer surface 24 that moves along an orbital path that passes through the receiving zone and the application zone during rotation of the transferring device. Each of the shell segments collects a part 4 in the receiving zone and holds it against the arcuate outer surface 21 via an electrostatic force before applying the parts to the carrier 24 in the application zone. The speed of the transferring device 14 is controlled by an independent driving mechanism that includes a programmable motor 16 via a shaft which transmits the conveying energy between the motor 16 and the rotatable transferring device 14. The programmable motor 16 maintains the surface of the transferring device 14 at a first speed at the receiving zone which matches the speed of the part 4 in that zone and then accelerates to maintain the speed of the transferring device 14 at a second speed in the application zone which matches the speed of the

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carrier 24 in that zone. It should be noted that while the first and second speeds are disclosed as being relatively constant, they may be varied none the less by the programmable control 17 of the motors 15 and 16. Therefore, because the passive language of the claims requires only that the relative speeds of the parts in the application and receiving zones be variable and not that relative speeds actually be varied, Van Den Bergh shows all the structure required by claims. 1-10.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over McNichols et al.

McNichols et al shows generally all that is required by the claims except for the second rotatable transferring device and independent driving means required by claim 13. It should be noted however, that the rotatable transferring device 100 of transfers pairs or articles between the receiving zone and the and therefore functions equivalently with the device of the present invention. It is recognized that the invention of claim 13 required a second independent driving mechanism, however, in the absence of any language differentiating the functioning of the first and second independent driving means, a the single driving means of McNichols et al. would function equivalently.

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Furthermore, in regards to the language of claims 12 and 21, it should be noted that it is well known in the art to apply an adhesive to a part to be applied to the web as it is being transferred to the web and therefore applying adhesive to the parts 908 before they are transferred to the web 903 is deemed to have been an obvious design choice absent some disclosure in the applicant's specification of some unusual advantage or result. *In re Kuhle*, 188 USPQ 7 (CCPA 1975).

6. Claims 1-21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Den Bergh in view of Rajala et al. '443 or Ujimoto et al.

Van Den Bergh shows generally all that is required by the claims except for the second rotatable transferring device required by claim 13, however it should be noted that it is well known in the art that parts may advantageously be transferred by pairs of rotatable transferring devices between conveyors moving at dissimilar speeds in order to increase the throughput of the transferring devices as taught by Rajala et al or Ujimoto et al. Therefore it should have been obvious to provide a second rotatable transferring device 14 and independent driving mechanism 16 adjacent to the single rotatable transferring device 14 in the device of Van Den Bergh in order to increase the throughput of the device. When Van Den Bergh is modified in this fashion, it would show all the structure required by claims 1-10 and 13-19.

Furthermore, in regards to the language of claims 12 and 21, it should be noted that it is well known in the art to apply an adhesive to a part to be applied to the web as it is being transferred to the web and therefore applying adhesive to the parts 908 before they are transferred to the web 903 is deemed to have been an obvious design choice absent some

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disclosure in the applicant's specification of some unusual advantage or result. *In re Kuhle*, 188 USPQ 7 (CCPA 1975).

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Winter, et al., Ungpiyakul et al., and Holzhauer all disclose the use of programmable motors for transferring an article moving at a first speed in a receiving zone to application zone moving at a second speed.

Steidlinger, Schmitz, and Rajala all show transferring device for transferring an article moving at a first speed in a receiving zone to application zone moving at a second speed which are generally similar to that of the present invention.

It should be noted that Winter et al., Ungpiyakul et al., and Rajala all disclose transferring devices in which a secondary process such as printing or application of adhesive is performed on the part being transferred.

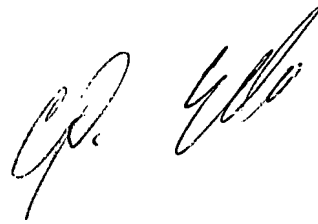
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Deuble whose telephone number is (703)305-9734. The examiner can normally be reached on Monday through Friday except for alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher P Ellis can be reached on (703)308-2560. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-7687 for regular communications and (703)308-0552 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.

md  
September 28, 2001

A handwritten signature in black ink, appearing to read 'C.P. Ellis', is written over a faint, larger signature.

CHRISTOPHER P. ELLIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600